

**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA**
Alexandria Division

In re:

UNITED REFUSE LLC,

Debtor.

Case No. 04-11503-RGM
(Chapter 11)

UNITED REFUSE LLC,

Plaintiff,

vs.

Adv. Proc. No. 05-1551

JAMES C. LEHNER &
SUZANNE LEHNER,

Defendant.

MEMORANDUM OPINION

United Refuse LLC, filed a motion to reopen evidence in this case on February 15, 2007 (Docket Entry 50). Stephen S. Biss filed a response on behalf of James C. Lehner and Suzanne Lehner on April 4, 2007 (Docket Entry 66). The response opposed United Refuse's motion to reopen. A hearing was held on April 10, 2007, at which Mr. Biss did not appear.

LBR 2090-1(H) provides as follows:

(H) Appearance at All Proceedings

(1) Appearance by Counsel for the Debtor: Any attorney who is counsel of record for a debtor, or debtors, in a bankruptcy case must be present and appear at all Court proceedings involved in the case unless excused or given permission to withdraw, or unless counsel has filed a pleading stating that the debtor has no objection to, or does not oppose, the relief requested, or counsel has endorsed without objection an order resolving the motion, objection, or application.

(2) Appearance by Other Counsel of Record: Any attorney who has filed a pleading

in a bankruptcy case must be present and appear at all Court proceedings involving that pleading unless Counsel:

- (a) has been excused by the Court;
- (b) has been given permission to withdraw by order of the Court;
- (c) has provided a notification of settlement in accordance with LBR 9013-1(O); or
- (d) has provided opposing or another counsel appearing at the initial pretrial conference with available dates so that a trial date can be established.

LBR 2090-1(H) required Mr. Biss to appear at the hearing. None of the exceptions were applicable.

While the court recognizes that Mr. Biss does not regularly practice in this court, but rather practices in the Richmond division, and that there is significant travel time from his office to this court, as long as he is counsel in any matter pending in this court, he must comply with LBR 2090-1(H). The court notes that it does permit telephonic appearances. Telephonic appearances are not typically appropriate where there will be evidence presented or where the matter is otherwise significantly contested.

DONE at Alexandria, Virginia, this 7th day of June, 2007.

/s/ Robert G. Mayer
Robert G. Mayer
United States Bankruptcy Judge

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